

## Department of Energy

## § 490.205

(2) Alternative fueled vehicles that meet the normal requirements and practices of the principal business of the State fleet are not available for purchase or lease commercially on reasonable terms and conditions in the State; or

(3) The application of such requirements would pose an unreasonable financial hardship.

(b) Requests for exemption may be submitted at any time and must be accompanied with supporting documentation.

(c) Exemptions are granted for one model year only, and they may be renewed annually, if supporting documentation is provided.

(d) Exemptions may be granted in whole or in part. When granting an exemption in part, DOE may, depending upon the circumstances, completely relieve a State from complying with a portion of the vehicle acquisition requirements for a model year, or it may require a State to acquire all or some of the exempted vehicles in future model years.

(e) If a State is seeking an exemption under—

(1) Paragraph (a)(1) of this section, the types of documentation that are to accompany the request must include, but are not limited to, maps of vehicle operation zones and maps of locations providing alternative fuel; or

(2) Paragraph (a)(2) of this section, the types of documentation that are to accompany the request must include, but are not limited to, alternative fueled vehicle purchase or lease requests, a listing of vehicles that meet the normal practices and requirements of the State fleet, and any other documentation that exhibits good faith efforts to acquire alternative fueled vehicles; or

(3) Paragraph (a)(3) of this section, it must submit a statement identifying what portion of the alternative fueled vehicle acquisition requirement should be subject to the exemption and describing the specific nature of the financial hardship that precludes compliance.

(f) Requests for exemption shall be addressed to the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-33, 1000 Inde-

pendence Ave., SW., Washington, DC 20585, or to such other address as DOE may announce in a FEDERAL REGISTER notice.

(g) The Assistant Secretary shall provide to the State, within 45 days of receipt of a request that complies with this section, a written determination as to whether the State's request has been granted or denied.

(h) If the Assistant Secretary denies an exemption, in whole or in part, and the State wishes to exhaust administrative remedies, the State must appeal within 30 days of the date of the determination, pursuant to 10 CFR part 1003, subpart C, to the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585. The Assistant Secretary's determination shall be stayed during the pendency of an appeal under this paragraph.

### § 490.205 Reporting requirements.

(a) Any State subject to the requirements of this subpart must file an annual report for each State fleet on or before the December 31 after the close of the model year, beginning with model year 1997. The State annual report may consist of a single State report or separately prepared State agency reports.

(b) The report shall include the following information:

(1) Number of new light duty motor vehicles acquired for the fleet by a State during the model year;

(2) Number of new light duty alternative fueled vehicles that are required to be acquired during the model year;

(3) Number of new light duty alternative fueled vehicle acquisitions by the State during the model year;

(4) Number of alternative fueled vehicle credits applied against acquisition requirements;

(5) For each new light duty alternative fueled vehicle acquisition—

(i) Vehicle make and model;

(ii) Model year;

(iii) Vehicle identification number;

(iv) Dedicated or dual-fueled (including flexible fuel); and

(v) Type of alternative fuel the vehicle is capable of operating on; and

(6) Number of light duty alternative fueled vehicles acquired by municipal

and private fleets during the model year under an approved Light Duty Alternative Fueled Vehicle Plan (if applicable).

(c) If credits are applied against vehicle acquisition requirements, then a credit activity report, as described in subpart F of this part, must be submitted with the report under this section to DOE.

(d) Records shall be maintained and retained for a period of three years.

(e) All reports, marked "Annual Report," shall be sent to the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE-33, 1000 Independence Ave., SW., Washington, DC, 20585, or such other address as DOE may provide by notice in the FEDERAL REGISTER.

**§ 490.206 Violations.**

Violations of this subpart are subject to investigation and enforcement under subpart G of this part.

**Subpart D—Alternative Fuel Provider Vehicle Acquisition Mandate**

**§ 490.300 Purpose and Scope.**

This subpart implements section 501 of the Act, which requires, subject to some exemptions, that certain annual percentages of new light duty motor vehicles acquired by alternative fuel providers must be alternative fueled vehicles.

**§ 490.301 Definitions.**

In addition to the definitions found in section 490.2, the following definitions apply to this subpart—

*Affiliate* means a person that, directly or indirectly, controls, is controlled by, or is under common ownership or control of a person subject to vehicle acquisition requirements in this part.

*Alternative Fuels Business* means activities undertaken to derive revenue from—

(1) Producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity; or

(2) Generating, transmitting, importing, or selling at wholesale or retail electricity.

*Business Unit* means a semi-autonomous major grouping of activities for administrative purposes and organizational structure within a business entity and that is controlled by or under control of a person subject to vehicle acquisition requirements in this part.

*Division* means a major administrative unit of an enterprise comprising at least several enterprise units or constituting a complete integrated unit for a specific purpose and that is controlled by or under control of a person subject to vehicle acquisition requirements in this part.

*Normal Requirements and Practices* means the operating business practices and required conditions under which the principal business of a person subject to vehicle acquisition requirements in this part operates.

*Principal Business* means the sales-related activity that produces the greatest gross revenue.

*Substantial Portion* means that at least 30 percent of the annual gross revenue of a covered person is derived from the sale of alternative fuels.

*Substantially Engaged* means that a covered person, or affiliate, division, or other business unit thereof, regularly derives more than a negligible amount of sales-related gross revenue from an alternative fuels business.

**§ 490.302 Vehicle acquisition mandate schedule.**

(a) Except as provided in section 490.304 of this part, of the light duty motor vehicles newly acquired by a covered person described in section 490.303 of this part, the following percentages shall be alternative fueled vehicles for the following model years:

- (1) 30 percent for model year 1997.
- (2) 50 percent for model year 1998.
- (3) 70 percent for model year 1999.
- (4) 90 percent for model year 2000 and thereafter.

(b) Except as provided in section 490.304 of this part, this acquisition schedule applies to all light duty motor vehicles that a covered person newly acquires for use within the United States.